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ABSTRACT

In debating the merits of the deregulation of broadcasting, policy makers should be cognizant of the conditions that led originally to that regulation. An examination of (1) the letters and speeches of Secretary of Commerce, Herbert Hoover, the first regulator of broadcasting; (2) the congressional debate over the regulatory issues of monopoly, censorship, scarcity, and listeners' rights; and (3) other contemporary documents reveals why, in the strong laissez-faire, marketplace-oriented atmosphere of the 1920s, radio policy makers strongly advocated federal regulation of the medium. The examination reveals that while scarcity of spectrum space first led to the Radio Act of 1927, early regulators recognized that the possible detrimental effect of monopoly and censorship also provided a strong rationale for radio regulation. The new law was seen as protecting the public's interest in radio because, under its provisions, no individual or corporation could monopolize broadcasting. Censorship by government was declared illegal and through the creation of an independent agency to regulate broadcasting, censorship by broadcasters was curtailed. Under the act, listener rights were firmly established, and stations were legally bound to operate in the public interest, convenience, and necessity. (FL)

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DEREGULATION?
EARLY RADIO POLICY RECONSIDERED

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INTRODUCTION

The Reagan administration's "hands-off," anti-regulatory policies are reflected in many deregulatory proposals, including those for cable and broadcasting. A striking parallel may be drawn to these policies if one turns back the clock sixty years. In the 1920's laissez-faire government developed under the Harding and Coolidge administrations. But, historians note, and documents verify, that while laissez-faire may have been these administrations' orientations, this philosophical framework does not explain the actions of regulators concerning broadcasting.[1] Instead of promoting total industry self-regulation, Secretary of Commerce Herbert Hoover, the first regulator of broadcasting,[2] strongly advocated federal regulation of radio. Because of the limited number of channels, Hoover, congressional representatives, broadcasters, and the public realized interference had to be stopped. Some also believed that broadcast monopolies and censorship by either government or broadcasters were potential evils and, therefore, had to be controlled. In short, during the 1920's the whole industry and the country demanded more regulation.

Today, in varying degrees, the White House, Congress, broadcasters, and the networks are crying for less regulation. The Federal Communications Commission is attempting to comply with present and past administrations' calls for regulatory reform. During the 1960's and the 1970's radio evolved into a medium aimed at specialized audiences as the number of stations and formats increased. Seeing this expansion as a reduction in radio spectrum scarcity, the FCC began deregulatory moves in the early 1970's[3] which culminated in its 1981 Report and Order: Deregulation of Radio.[4] Central to the revisions in the Order is the concept that marketplace forces will dominate and control previously regulated functions such as non-entertainment programming and commercial time practices.[5] If future government-directed deregulatory efforts continue as planned, the FCC will require fewer regulations.

But, as these efforts proceed, the deregulators would be wise to consider why, under such strong laissez-faire, marketplace-oriented government in the 1920's, did

the first broadcast regulators include anti-monopoly, anti-censorship clauses in legislation? Was "scarcity of the ether" the only rationale for regulation? Why did the rights of the listeners become an established requirement in regulation? A close examination of the letters and the speeches of Secretary Hoover concerning broadcasting stored at the Herbert Hoover Presidential Library in West Branch, Iowa; the congressional debate over the regulatory issues of monopoly, censorship, scarcity, and listeners' rights; and a look at other contemporary documents will give insights into these questions. A chronology of the administrative and the legislative history of the Radio Act of 1927 will provide an ordered look into these interwoven issues.

THE NEED FOR REGULATION - AN OVERVIEW

The Wireless Ship Act of 1910, the first American radio law, was limited to the use of radio at sea; the Radio Act of 1912 made it illegal to operate a radio station without a license from the Secretary of Commerce.[6] But, both acts failed to provide discretionary standards for effective regulation of broadcasting. After World War I broadcasting began evolving and by the early 1920's new laws were needed.

Bills were introduced in Congress and, as most broadcast historians note, signal interference of stations prompted these calls for regulation.[7] Radio regulations under the laws of 1910 and 1912 had simply proven inadquate for broadcasting.[8] Court decisions held that under these acts the Secretary of Commerce did not have the authority to withold licenses from stations[9] and to regulate a station's frequency, power, or hours of operation.[10] As a result of these decisions and the attorney general's opinion issued in July 1926 stating that the 1912 act did not grant the commerce secretary power to make regulations,[11] many broadcasters changed frequencies and increased power and operating time regardless of the effect on other stations.

In addition to these problems, the specters of monopoly and censorship in the growing medium had reared their ugly heads. Certain companies including American

Telegraph and Telephone, the Radio Corporation of America, Westinghouse Electric and Manufacturing Company, United Fruit Company and Western Electric Company were alleged to have entered into contracts to control both the manufacture and the sale of radios and the transmission of messages.[12] Congressional leaders, smaller broadcasters, and the public believed such control had to be curbed through application of anti-trust laws, if necessary, and through enactment of new broadcasting legislation. New laws, they believed, were also necessary to control problems of station interference.

After much debate and many hearings on the issue of radio regulation, that covered several years, Congress finally passed radio provisions and President Calvin Coolidge signed them into law February 23, 1927.

SECRETARY HOOVER AND THE COMMERCE DEPARTMENT - THE FIRST REGULATORS

Until this new legislation was passed, the commerce department regulated broadcasting. In letters to it, the public expressed anger at interference problems and voiced regulatory concerns. While all complained that interference was definitely not in the public interest, each individual had ideas of what should or should not, be aired. One urged that politicians should not be permitted to use the airwaves while another argued that religious programming should be banned.[13] Others warned of radical elements "insidiously maligning" America or offered to assist radio corporations with their civic programming.[14] To these, Secretary Hoover usually replied with a polite "Thank you" and a statement to the effect that the radio situation was under intense review.[15]

That review had begun in February, 1922, when Hoover called what was to be the first of four radio conferences to inquire into proposed changes in regulations for broadcasting. As early as 1921 Hoover had recognized that the regulatory situation was rapidly changing and new laws were needed to protect the ether as a scarce "natural resource."[16] In his opening remarks to the First Radio Conference, Hoover

introduced the concept of the public's privilege as foremost in broadcasting. "...It becomes of primary public interest to say who is to do the broadcasting, under what circumstances, and with what type of material."[17] The public's rights and interests in broadcast regulation were to be involved in all regulatory moves because, to Hoover, it was necessary "to so establish public right over the ether roads that there may be no national regret that we have parted with a great national asset into uncontrolled hands."[18]

Hoover constantly emphasized "public interest" throughout the decade. In his speeches and correspondence and in Department of Commerce press releases the phrases "public interest," "public rights," "listener rights," and "public service" and the themes of anti-monopoly and anti-censorship recur like a Wagnerian leitmotiv. In 1924, for example, in hearings before the House of Representatives on one of the many radio control bills, Hoover stated that a general principle for radio was "an assurance of public interest for all time."[19] Earlier, in a telegram to the managing editor of Radio Digest Hoover outlined his fears of monopolistic control: "I can state emphatically it would be most unfortunate for the people of this country to whom broadcasting has become an important incident of life if its control should come into the hands of any single corporation, individual or combination. It would be in principle the same as though the entire press of the country were so controlled."[20] Hoover clearly saw the use of the either as a public concern taking place in an atmosphere of "public interest to the same extent and upon the same basis...as our other public utilities."[21]

In speaking to a radio audience Hoover warned monopoly could develop only "through the restriction on the use of radio instruments; that is, the doors in and out of the ether."[22] Fears of monopoly had been raised by the actions of certain businesses; among these were AT&T, RCA, Westinghouse Electric and Manufacturing Co., United Fruit Company, and Western Electric Company.

> Apprehension has been expressed, and there is evidence sufficient to raise the question in reasonable minds, that certain companies and interests have been endeavoring to establish a monopoly in wireless communication through control of the manufacture and sale of radio instruments, through contractural arrangements giving exclusive privileges in the transmission and exchange of messages or through other means...[23]

Control of such monopolistic tendencies was as important to congressional representatives and to secretary Hoover as was the control of interference.[24] In early 1923 Congress asked the Federal Trade Commission to investigate radio monopoly and, in December of that year, the FTC issued a 347-page report to the House.[25] While the FTC submitted "no conclusions in this report as to whether the facts disclosed constitute a violation of anti-trust laws," the FTC did file a complaint against General Electric, AT&T, Western Electric Co., Westinghouse Electric and Manufacturing Company, International Radio Telegraph Co., the United Fruit Company, Wireless Specialty Apparatus Co., and RCA charging them with monopoly in patents and in the sale and use of apparatus for wire and wireless communication.[26]

Because of this FTC filing and the government's policies "adopted for retaining fundamental control of all of the routes through the ether by the Government" and, hence, by the people,[27] Hoover did not see monopolies developing. Individual or corporate control of access to the medium, he told a New York World reporter, could not occur because "the Government can prevent them from using the ether and thus destroy the value of the (transmitting) apparatus if it chooses."[28]

This control would not involve government censorship of material, however. Hoover's views on such censorship were summed up in an address delivered to the California Radio Exposition in 1924:

> I certainly am opposed to the Government undertaking any censorship even with the present limited number of stations. It is better that these questions (of determining material to be broadcast) should be determined by the 600 different broadcasting stations than by any Government official.[29]

In addition to censorship and monopoly, service to listeners and interference reduction were two major points discussed in all of the radio conferences. By the Fourth Radio Conference in November, 1925, a third major topic was being discussed by the conferees: the duality of freedom of speech. In radio, they seemed to agree, freedom of speech existed for the speaker and for the listener.[30] Hoover recognized this dyad and urged strong legislation at the federal level to curb interference, monopolies, and censorship that might affect what listeners received. A statement issued after passage of the Radio Act of 1927 summed up his feelings during the battle for increased radio legislation:

> The whole sub-current of the fight over radio legislation during the last two years has been to prevent the radio listeners being dominated by politics or any other selfish interest in control of broadcasting. Three years ago the Department of Commerce stated there must be Federal regulation owing to the limited number of wave lengths and therefore the inability of all persons to broadcast without mutual destruction of all service; that this limitation on stations would result directly in a privilege; that the public interest was therefore involved.[31]

Legislation did emphasize the anti-monopoly, anti-censorship public interest sentiments espoused by Hoover. Through this emphasis Congress also rejected a laissez-faire attitude toward radio.

1921 - 1924: EARLY REGULATORY MOVES
CONGRESS AND THE CONFERENCES

Legislative efforts for broadcasting began as early as 1921 when Representative Wallace White of Maine first proposed radio laws to amend the 1912 act.[32] Other efforts grew from suggestions made during the four radio conferences. The conferees' suggestions made in three areas proved most salient: the selection of broadcasting materials, the thwarting of censorship and ownership monopolies, and the prevention of signal interference.

Censorship of broadcast materials was recognized as a potential danger of grave consequence. Critics charged broadcasters could possibly select programs and speakers in accord with their beliefs while ignoring other, valid viewpoints.[33] But, this would not happen, the American Telegraph and Telephone representative told participants during the First Radio Conference. AT&T would service "legitimate people in their order of application"[34] with their proposed "toll" broadcasting. When the Westinghouse Electric and Manufacturing Company's representative was questioned as to his company's decision to broadcast different religious groups, he stated, "We don't choose. We broadcast one after the other and we have had practically all denominations."[35] But, in spite of such assurances, questions of priority of broadcasts and broadcasters' control of the airwaves plagued the First Radio Conference participants. Representative White summed up the crux of the debate:

> Broadcasting is a class of service. Can you subdivide that class, for instance, can you say that crop reports shall have a priority over baseball reports?...Shall you give a priority to baseball over horseracing?[36]

During the conference Rep. White also recognized that another type of material -- political -- could possibly force broadcasters to decide priority of "who is to broadcast." A conference participant, Armstrong Perry, spoke favorably of receiving political speeches through the Washington-based Naval radio station. White questioned the appropriateness of such usage.

> Who is to determine what speech the Navy shall broadcast? Shall the Navy elect to send Senator Lodge's speech (on the Arms Conference) and decline to send Senator Reed's comments on the Treaty?...If you are going to put the Navy into broadcasting of speeches, who is to say what speech and what trouble is the Navy going to get into?[37]

Perry replied that he saw little more difficulty with this activity than in determining what was placed in the Congressional Record. But any possible debate upon the political ramifications of radio's use was cut short by conference chairman, Dr. S.W. Stratton, director of the Bureau of Standards of the Department of Commerce. "I think the answer to this question is - in this case it was experimental

work," he said.[38] White countered that the question of priorities still remained unanswered: "When you permit broadcasting, are you going to undertake or give priorities in broadcasting, and if you are, who is going to make the decision?"[39] That question became central to discussions on monopoly and censorship and these topics became more important as legislative efforts proceeded.

In 1922, after the first radio conference, Senator Frank Kellogg and Representative White introduced bills in their respective houses for radio control. Both bills sought to extend control over persons or groups "monopolizing or seeking to monopolize radio communication"[40] to the Secretary of Commerce. Succeeding bills also reflected congressional desires to curb ownership monopolies and to establish the public's sovereignty over the airwaves,[41] but the proposed laws failed to gain support in both houses of Congress because of questions of discretionary power in regulating the medium. Most early radio bills placed "sole control" of radio regulation in the hands of the Secretary of Commerce, but possible abuses in such placement were quickly raised[42] and requests for an advisory commission to the secretary were made.[43]

Questions concerning "who was controlling radio" also focused on broadcasters' regulation of what was aired. In debating the various radio bills congressional representatives cited examples of broadcasters' power in controlling messages. During debate Senator Jones of Texas charged that AT&T had refused to use of its lines to a theater for transmission of a concert[44] while Charles Caldwell of the Radio Broadcasters' Society of America accused AT&T of refusing to sell time to religious groups for broadcast of Sunday afternoon services and of withdrawing an invitation to use AT&T facilities when AT&T learned a speaker would talk on the 1924 political campaign.[45] Caldwell further asserted that, unless such practices were stopped immediately, monopolies would grow and in the future

> ...it might well be that some official of the monopoly company sitting in the quiet of his executive office, surrounded and protected and away from the public, where he can not be seen, will issue the fiat that only one kind of religion shall be

> talked over the radio; that only one kind of politics shall be talked over the radio; that only one candidate can give messages to the people; that only one kind of soap can be advertised.[46]

While this last example caused the hearings to break into laughter, an event occurred during the 1924 campaign that did not cause jocularity among politicians. That incident involved a third party candidate for the Presidency: Robert LaFollette.

POLITICAL RADIO MONOPOLY?

Politicians and broadcasters alike were looking forward to the 1924 political season. Radio manufacturers were predicting record sales -- all because of the intended broadcast coverage of the national conventions and the Presidential elections.[47] By mid-summer there were 535 stations broadcasting and politicians were eager to try "the chief medium through which the contending parties and nominees will reach the public."[48] With growth came fears of broadcaster-imposed censorship. During hearings on HR 7357 "To Regulate Radio Communication" Rep. Ewin Davis of Tennessee asked AT&T representative William Harkness:

> You can readily see, can you not, that one candidate might monopolize the radio field by obtaining contracts that his speeches and his propaganda, if we may use that term, might be carried and the other fellow not permitted to employ the same method of reply?[49]

Harkness denied that broadcasters would allow that to happen. But fears came to possible realization in the fall when Robert LaFollette was refused time on Des Moines, Iowa, station WHO. He bitterly complained that he was victim to monopoly interests that wished to keep him off the air. Hoover replied to the charge in a press release picked up by the New York Times that, under present regulations, LaFollette could erect his own station and broadcast whatever he pleased. Hoover added that the government, contrary to LaFollete's belief, had no say in what was broadcast.

> The Department of Commerce does not and can not give orders to radio stations that they must or must not broadcast A, B, or C. This would be a gross violation of the very foundation of free speech and would, in the end, amount to a government censorship of what goes out over the radio.[50]

As for monopoly of the airwaves, Hoover stated

> There are 530 radio stations in the United States; less than a dozen of them belong to the people that Mr. LaFollette calls the monopoly. There is no monopoly and can be none under the law. The stations are all independent and have the right to decide for themselves as to what they will or will not broadcast just as much as a newspaper has the right to decide what it will publish.[51]

In Hoover's mind, broadcasters maintained control over what political messages they could transmit as in 1924 there were no enforceable regulations offering political "equal time." LaFollette's charges subsided, but political contenders still cast a wary eye on the potential monopolistic power of radio.

This potential had been so evident to participants of the Third Radio Conference in October, 1924, that representatives of both AT&T and RCA defended their claims to public service and refuted charges of monopoly. David Sarnoff, RCA vice-president and general manager, called charges of monopoly against AT&T and RCA "ridiculous" and said that radio was developing "in the direction of competition," not exclusivity.[52]

> The stations of the group with which I am associated have records as clean as a hound's tooth, so far as any preferences with respect to programs are concerned. Every political party, every religious sect, has had its full opportunity and its full chance to deliver its message over those stations without any charge whatsoever. And that record is one that I do not believe calls for any apology or any criticism.[53]

These sentiments were the same as those he had stated earlier during hearings on radio regulation.[54] Radio was serving the public, according to Sarnoff, but later he told a broadcasting convention that radio would not achieve its full potential.

> Unless and until the best programs in the air can be received at will in every home in the country, until, in a national emergency, a single voice is able to deliver its message to every home equipped with a radio set.[55]

To Sarnoff, such public service and broadcasters' profit did not clash.

> I believe that every responsible factor in radio industry realizes that the opportunity for fair profit in the industry implies a consequent obligation of public service.[56]

A part of this public service also involved the interconnection of stations -- networking.[57]

CONGRESS FINALLY ACTS

Networks and their possibilities were discussed in hearings on the bills which finally became the Radio Act of 1927. Representative Johnson of Texas stated that as a medium for entertainment, education, information, and communication, radio's potential was limitless.

> The power of the press will not be comparable to that of broadcasting stations when the industry is fully developed....it will only be a few years before these broadcasting stations, if operated by chain stations, will simultaneously reach an audience of over half of our entire citizenship.[58]

He added radio's ability to mold and to crystallize sentiment was unequalled and stated, because of this power, monopoly and discrimination by stations must be deemed illegal.[59] If not, then "American thought and American politics will be largely at the mercy of those who operate these stations...then woe to those who differ with them (the station operators). It will be impossible to compete with them in reaching the ears of the American public."[60]

As bills were reviewed, possible broadcaster misuses and potential abuse by proposed regulatory powers were debated. As with previous bills, under proposals in the House in 1926, control of license renewel was left in the hands of the Secretary of Commerce. Again, during hearings, this "discretionary power" was questioned.

> Rep. Frank Reid: ...suppose some broadcasting station during the Republican administration of the Government, is broadcasting a lot of Democratic documents which we thought were not for the good of the country. Would it be possible for him (the secretary) to refuse the license if, in his discretion, he thought that? Would it not be a limitation on the freedom of speech?
>
> Mr. Stephen Davis: If you can imagine a secretary doing that, he would have the power, but his action would be reviewable by a court on a direct appeal, under the terms of the bill...[61]

Throughout the hearings Tennessee Representative Ewin Davis returned to questions of religious programming and equitable coverage of issues and candidates on radio. AT&T representative W.E. Harkness told Davis and the other representatives AT&T gave time for religious broadcasts with the understanding that one group not offend others. To this, Davis countered:

> Davis: In political questions, why, they, of course, would necessarily offend the other class.
>
> Harkness: We have met that situation very frequently in this way: During the last national political campaign, we presented all parties and gave them equal opportunity and they paid for the service received.
>
> * * *
>
> Davis: Suppose one candidate, we will say, for Governor of New York, buys the privilege of speaking---
>
> Harkness: The other man had the same privilege.
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> Davis: (continuing) Is it your policy to grant the other man the same privilege?
>
> Harkness: If we give it to one, we give it to all....they were all treated alike, the socialist candidates the same as the others.
>
> Davis: Have you had any complaints from either organizations or individuals that they were not treated fairly in that respect?
>
> Harkness: I can say, in general, we have had no complaints of that kind at all.[62]

But the House committee members agreed potential problems existed especially in the areas of audience deception with "propaganda" and possible censorship by broadcasters.[63] Other legislators pointed out that broadcasters' "censorship," or "editing" as broadcasters called it, was done to eliminate slanderous or seditious material.[64]

The Senate, too, held hearings in early January on its version of a radio control bill. The senators expressed concern with monopolistic control of the nature of the speeches and educational materials broadcast.[65] The Senate version also provided for an independent commission "to prohibit and prevent monopolization of the use of the ether by any person, firm, corporation, or association...and (to) encourage

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and (to) assist in the development and improvement of the use of radio."[66] The bill would empower "the Commission to refuse or revoke licenses in cases of monopoly or attempted monopoly."[67]

During the senators' arguments on who was to be the regulatory authority -- an independent commission or the Secretary of Commerce --discussions were tied to the use of the airwaves by politicians and "vested interests" of broadcasters.[68] The bill's sponsor, Clarence Dill, stated a commission was necessary because license renewel under the commerce department made broadcasters feel an "obligation" to that department. Dill added some stations were reluctant to air views attacking the administration because "they were compelled to go to Washington to get their licenses renewed and could not afford to take the chance of displeasing the administration."[69]

During further debate on censorship and control of the airwaves some senators argued for provisions extending a form of equal opportunity for use of the airwaves to discussions of issues while others wished to void a provision stating that broadcasters could deny use of facilities to all potential candidates.[70] In the midst of this debate, Senator Robert Howell presented what has become a justification for differentiating between electronic and print media:

> Are we to consent to the building up of a great publicity vehicle and allow it to be controlled by a few men, and empower those few men to determine what the public shall hear?
> It may be argued that we do that with the newspapers. Yes, that is true; but anyone is a liberty to start a newspaper and reply. Not so with a broadcasting station.[71]

Under any new radio legislation, the senators believed every applicant could not be granted a license to use the limited resource of the ether.

Finally, new regulations were passed by the House on March 15, 1926, and by the Senate on July 2.[72] After the two versions were reconciled in early 1927, Congress embodied the Radio Act into law and President Coolidge signed it February, 23, 1927.[73]

CONCLUSION

With the passage of the 1927 act, legislators believed the privilege of the air was safeguarded from station frequency interference. Regulators had recognized, while scarcity of spectrum space first led to new radio legislation in the public interest, the possible detrimental effects of monopoly and censorship in the new medium also provided a strong rationale for regulation. The new law was seen as protecting the public's interest in radio as, under it, no individual or corporation could monopolize broadcasting. Censorship by the government was declared illegal and, because an independent agency had been established to regulate broadcasting, self-censorship by broadcasters was believed to be curtailed. Last of all, listener rights were firmly established over a public resource -- the airwaves. Under the act stations were legally bound to operate in the public's interest, convenience, and necessity. In sum, the public's rights were protected by listener rights, sentiments and anti-censorship, anti-monopoly clauses found in the Radio Act of 1927; these were transferred into the 1934 Communications Act that today regulates broadcasting.

Consequently, in debating the proposed merits of deregulation for broadcasting today, policy makers should be cognizant of those conditions which led originally to legislation. In addition to scarcity, the possibilities of monopoly and censorship were strong rationales for regulation. Decision makers must decide if these specters still exist; they must ask themselves if conditions have changed substantially from the 1920's to warrant alterations.

NOTES

1. See Erik Barnouw, A Tower in Babel, A History of Broadcasting in the United States Vol I to 1933. New York: Oxford University Press, 1966. Walter B. Emery, Broadcasting and Government: Responsibilities and Regulations. East Lansing, Michigan: Michigan State University Press, 1971. Sydney W. Head. Broadcasting in America: A Survey of Television and Radio, 3rd edition. Boston: Houghton Mifflin Co., 1976. Philip T. Rosen, The Modern Stentors. Westport, Connecticut: Greenwood Press, 1980. Daniel E. Garvey, "Secretary Hoover and the Quest for Broadcast Regulation," Journalism History, 3:3 Autumn 1976, p. 66-70, 85. Joseph P. McKerns, "Industry Skeptics and the Radio Act of 1927," Journalism History, 3:4 Winter 1976-77, p. 126-131, 136. Donald Godfrey, "The 1927 Radio Act: People and Politics," Journalism History, 4:3 Autumn 1977, p. 74-78.

2. Glenn A. Johnson, Secretary of Commerce Herbert Hoover: The First Regulator of American Broadcasting 1921-1928, unpublished PhD dissertation, University of Iowa, 1970. C.M. Jansky, Jr., "The Contributions of Herbert Hoover to Broadcasting," Journal of Broadcasting, I (Summer 1957) 3:249.

3. Deregulation of Radio, 73 FCC2d 457 (1979). Also, "Whitehead calls for a new deal," Broadcasting, October 11, 1971, p. 14. "Burch, Wiley fill in pattern for deregulation," Broadcasting, September 25, 1972, p. 29. "Tempting hint of radio deregulation," Broadcasting, October 23, 1978, p. 25. "Bazelon, Ferris: More sources of programs mean less regulation," Broadcasting, February 5, 1979, p. 29.

4. Deregulation of Radio, 46 FR 13888 (1981).

5. Ibid.

6. The Wireless Ship Act, Public Law 262, 61st Congress (June 24, 1910) and The Radio Act of 1912, Public Law 264, 62nd Congress (August 13, 1912) in Documents of American Broadcasting, 2nd edition, ed. Frank J. Kahn, (New York: Appleton-Century-Crofts, 1973), p. 5-16.

7. See Barnouw, Emery, Head, Rosen, Garvey, McKerns, Godfrey, Johnson and Jansky supra notes 1 & 2.

8. Ninth Annual Report of the Department of Commerce, Washington, D.C.: U.S. Government Printing Office, 1921, p. 141.

9. Hoover v. Intercity Radio Co., Inc. 286 F 1003 (D.C. Cir., 1923).

10. United States v. Zenith Radio Corporation, et al., 12 F2d 614 (N.D. Ill, 1926).

11. 35 Ops. Att'y General 126 (July 8, 1926) published in Kahn, p. 28-32.

12. See U.S. Congress H. Rept 404, 69th Congress 1st session, February 27, 1926, p. 7-9 and U.S. Congress H. Rept 464, 69th Congress 1st session, March 5, 1926, p. 4-6.

13. Homer Croy, "To Mr. Hoover from the Postmaster at Boone Stop, Mo.," Radio Broadcast, January 1923, p. 205-206. Unsigned postcard, November 28, 1925, Herbert Hoover Presidential Library (HHPL), West Branch, Iowa. File Boxes 489 and 490.

14. Letter to Herbert Hoover from H.E. West of the American Defense Society, Inc., September 25, 1925; unsigned copy of a letter to Hoover, November 21, 1925; George Lockwood letters to Hoover and Senator James Watson, May 7, 1926, and May 15, 1926; Letter to Hoover from Mary Morrison, Illinois League of Women Voters, May 23, 1925, HHPL, Boxes 490 and 501

15. Other letters pertaining to radio and Hoover's replies may be found in Boxes 489, 490, 496, and 501.

16. Letter to Frank B. Kellogg from Hoover, May 23, 1921, HHPL, Box 548.

17. Statement by the Secretary of Commerce at the Opening of the Radio Conference on February 27, 1922, HHPL, Box 489.

18. Ibid.

19. "Statement by Secretary Hoover at Hearings before the Committee on the Merchant Marine and Fisheries on HR 7357, 'To Regulate Radio Communication and for other Purposes,'" March 11, 1924, HHPL, Box 489.

20. Telegram to E.E. Plummer and "Statement by Secretary Hoover," March 10, 1924, HHPL, Box 489. Also, "Hoover takes stand on question," Radio Digest, March 24, 1924, HHPL, Bible #366A.

21. Ibid. Also appears in S.R. Winters, "An Interview with Secretary Hoover," Radio News, October 1924, HHPL, Bible #401A. The tie to public utilities was suggested as early as February 7, 1923, in a memo to Hoover from Walter Rodgers, HHPL, Box 501. In the memo Rodgers uses the phrase "public convenience and necessity." Hoover's sentiments are also reiterated in other statements that can be found in Boxes 489-491, 496, 501 and Bible Volumes, 7, 11, 12, 15-23, 29 & 54.

22. Radio Talk by Secretary Hoover, Washington, D.C., March 26, 1924, HHPL, Box 489.

23. U.S. Congress H. Rept 1416, to accompany HR 13773, "Bill To Amend An Act to Regulate Radio Communication, Approved August 13, 1912, and for other purposes," 67th Congress 4th session, January 16, 1923, p. 4.

24. Congressional Record, LXIV, 2782-2783.

25. H. Rept 404 and H. Rept 464, supra note 12.

26. Ibid. For futher explanation see Barnouw and Rosen, supra note 1.

27. Radio Talk by Secretary Hoover, supra note 22.

28. "The Government's Duty is to Keep the Ether Open and Free to All," New York World, March 16, 1924, HHPL, Bible #364.

29. "Radio Problems," Address before California Radio Exposition, San Francisco, August 16, 1924, HHPL, Box 490.

30. "Radio Problems and Conference Recommendations," radio address, November 12, 1925, HHPL, Box 496.

31. "Statement by Secretary of Commerce Hoover," press release, March 6, 1927, HHPL, Box 490. Also, "Radio Legislation Praised," HHPL, Bible #708.

32. See correspondence regarding radio legislation dated April 12-13, 1921, between Wallace White and Herbert Hoover, HHPL, Box 283. Calls for radio regulation had also come during the 1910's. See, for example, a letter from the Secretary of the Navy entitled "Views of the Navy Department on Radio Communication," HR Doc 165, 66th Congress 1st session, July 24, 1919, p. 1-3.

33. Minutes of Open Meeting of Department of Commerce Conference on Radio Telephony, February 27 & 28, 1922, HHPL, Box 489.

34. Ibid., p. 9.

35. Ibid., p. 39.

36. Ibid., p. 96.

37. Ibid., p. 123.

38. Ibid., p. 124.

39. Ibid.

40. U.S. Congress, House. "To Amend the Radio Acto of 1912," Hearings on HR 11964 before the Committee on the Merchant Marine and Fisheries, 67th Congress 4th session, January 2 & 3, 1923, p. 2. Also, U.S. Congress, Senate. "To Amend the Radio Act of 1912," S. 3694, Congressional Record, LXII, 8400.

41. Congressional Record, LXV, 5735-5736.

42. Congressional Record, LXIV, 2333-2336, 2340-2341, and 2346. Also, Hearings on HR 7357, supra note 19, p. 17 and 31.

43. Congressional Record, LXIV, 2340-2341.

44. Ibid., 2782-2783.

45. Hearings on HR 7357, supra note 19, p. 36.

46. Ibid.

47. E.B. Mallory speech before the Second Annual Radio Conference under the Auspices of the Music Master Corp. of Philadelphia, March 6, 1924, p. 38, HHPL, Box 489.

48. Henry E. Marschalk, Second Annual Radio Conference under the Auspices of the Music Master Corp. of Philadelphia, March 6, 1924, p. 22, HHPL, Box 489.

49. Hearings on HR 7357, supra note 19, p. 83. (Some sources list Rep. Davis' first name as "Edwin." The Congressional Directory states it is "Ewin.")

50. "Radio Monopoly and Mr. LaFollette," press release, October 16, 1924, HHPL, Bible #405.

51. Ibid.

52. Third Radio Conference, Report of Proceedings of Subcommittee No. 3 - "Dealing with General Problems of Radio Broadcasting," October 6-10, 1924, p. 44, HHPL, Box 496.

53. Ibid., p. 45.

54. Hearings on HR 7357, supra note 19, p. 160-161, 169-170.

55. Letter to Hoover from David Sarnoff and Sarnoff's address to the Fourth Annual National Radio Exposition, September 15, 1925, HHPL, Box 539. Also, U.S. Congress, House, Committee on the Merchant Marine and Fisheries, "To Regulate Radio Communication," Hearings on HR 5589, 69th Congress 1st session, January 6, 7, 14, and 15, 1926, p. 144.

56. Ibid.

57. Third Radio Conference, Subcommittee No. 3 Report, supra note 52, p. 43-44.

58. Congressional Record, LXVII, 5558.

59. Ibid.

60. Ibid.

61. Hearings on HR 5589, supra note 55, p. 26.

62. Ibid., p. 56-58.

63. Ibid., p. 83-87.

64. Congressional Record, LXVII, 5491.

65. U.S. Congress, Senate. Committee on Interstate Commerce, "Radio Control," Hearings on S.1 and S. 1754, 69th Congress 1st session, January 8-9, 1926, p. 97.

66. Clarence C. Dill, "Statement on Radio Bill," April 22, 1926, HHPL, Box 545.

67. Ibid.

68. Congressional Record, LXVII, 12335+. "Senate Joint Resolution 125," Congressional Record, LXVII, 12959. Also see "Hoover's Signature on Radio License Traded in for over $1,000,000," Springfield Republican, April 26, 1926; John Edwin Nevin, "President Opposes Boards Not Under Executive Control," Washington Post, April 28, 1926; Morris Ernst, "Who Shall Control the Air?" The Nation, April 21, 1926; and "Why the Department of Commerce Should Control Radio," Radio Broadcast, January, 1927. Discussion on this issue also continued in 1927 during the final debate on the radio bill, Congressional Record, LXVIII, 2870.

69. Congressional Record, LXVII, 12375

70. Ibid., 12501-12505

71. Ibid., 12503.

72. Ibid., 5647 and 12618 respectively.

73. Congressional Record, LXVIII, 4938.